



## Changes to the Home Builders Licensure Board's Administrative Code...What **YOU** Need to Know

In our Spring 2018 newsletter, we provided a summary of the changes made to the Home Builders Licensure Law that went into effect on May 1, 2018. Following those changes, the HBLB made changes to its Administrative Code that reflect updates to the law as well as some additional changes. The following changes are effective October 12, 2018:

- **ROOFERS LICENSE:** Starting January 1, 2019, any builder who contracts with a homeowner to perform residential roofing; "installing products or repairing surfaces on the external upper covering of a residence or structure that seals, waterproofs, or weatherproofs the residence or the structure, when the cost of the undertaking exceeds \$2,500" will be required to have a **ROOFERS LICENSE** issued by the Board and to maintain coverage of a \$10,000 performance bond. The roofers license allows the license holder to perform **ONLY** residential roofing and **DOES NOT** require a written examination testing experience and ability. (Ala. Admin. Code r. 465-X-1-.01(10); 465-X-3-.04(2) and (5)).
  - An applicant for the Roofers License **MUST** demonstrate proof of financial responsibility by

submitting to the Board, at the applicant's expense, a bond issued by a licensed bonding or surety company. The bond:

1. must be in an amount not less than \$10,000;
2. must name the Home Builders Licensure Board as the obligee of the bond;
3. must be valid for coverage from the date of issuance to December 31 of the current licensure year; and
4. must include a legal instrument sufficient to authorize the Board to exercise the bond.

A bond form to be completed by the bonding company is included with the roofers license application.

- With an application for the roofers license, the experience and ability requirements for licensure are met if such person submits an application to the Board establishing:

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## Home Builders Licensure Board's General Counsel Retires

After 17 years of service, Jamie Durham, General Counsel for the Home Builders Licensure Board retired September 30, 2018. Mrs. Durham was appointed as Deputy Attorney General by Attorney General Bill Pryor in July of 2001 to serve the Board as an attorney and supervisor of the licensure division. She was largely responsible for creating the procedures the Board adopted and continues to use to fight the problem of unlicensed building activity. She has implemented those procedures to successfully criminally prosecute over 300 unlicensed builder cases, many of which led to additional felony convictions. She wrote legislation for multiple statutory revisions, accompanied by their rule promulgations and served as a liaison between the Board and the Legislature.

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Jamie Durham (center) pictured with current Board Members (from left to right) Roddy Sample, Kenneth Chandler, Ken Kirchler, Don Spurlin, Lynn Corder, Peggy Turner, Bill DeLoney.

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- That the applicant possesses sufficient roofing qualifications and experience to receive a license, as demonstrated by satisfactory evidence presented to the Board. Proof that an applicant currently holds or held on or before one (1) year prior to the date the application is received by the Board, a business or occupational license, issued by a governmental instrumentality of this state, as a contractor, roofer, or other construction trade, shall provide sufficient evidence of the applicant's building qualifications and experience.
- **EXPERIENCE & ABILITY REQUIREMENTS FOR LIMITED LICENSE:** To satisfy the experience and ability requirements necessary to obtain a limited license, an applicant must show **ONLY** the following:
  - Proof that an applicant currently holds or held on or before one (1) year prior to the date the application is received by the Board, a business or occupational license, issued by a governmental instrumentality of this state, as a contractor, roofer, or other related construction trade, shall provide sufficient evidence of the applicant's building qualifications and experience. (Ala. Admin. Code r. 465-X-3-.04 (4)).
- **MILITARY FAMILY APPLICANTS:** Any license applicant meeting the eligibility requirements of the Military Family Jobs Opportunity Act (Ala Code § 31-1-6(c)) may satisfy the experience and ability requirements of licensure and will be eligible for a waiver of the initial license fee for at least 180 days unless extended by the Executive Director. A completed application will be expedited and will be reviewed by the Board at its next scheduled meeting. (Ala. Admin. Code r. 465-X-3-.04(8)).
- **EMERGENCY ROOFING LICENSE:** When a state of emergency is declared by the Governor of the State of Alabama pursuant to Ala. Code § 31-9-8, the Executive Director is authorized to waive the requirements for the issuance of a home builders roofers license, except for proof of financial responsibility (a bond issued by a licensed bonding or surety company). (Ala. Admin. Code r. 465-X-3-.04(10)).
  - If the state of emergency does not affect the entire state, emergency licenses will only be issued and remain valid in the counties designated by the Governor's proclamation.
  - Licenses may be issued during the entire duration of the state of emergency, ending when the state of emergency expires or the Governor declares it to be over.

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**2019 Renewals**  
**October 1<sup>st</sup> —November 30<sup>th</sup>**  
**RENEW NOW!**

**Avoid a Late Fee**

*2018 Licenses expire December 31, 2018*

**Online...On Time!**

[www.hblb.alabama.gov/online-services/](http://www.hblb.alabama.gov/online-services/)

***Home Builders Licensure Board's General Counsel Retires***

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Mrs. Durham administered the Home Builders Licensure Board's Homeowners' Recovery Fund which was established to aid consumers damaged by licensees. During her tenure, Mrs. Durham supervised the payment of over six (6) million dollars in increments of \$20,000 or less to Alabama housing consumers. She successfully wrote appellate briefs that found their way through the Alabama Court of Civil Appeals and the Alabama Supreme Court.

Mrs. Durham received her law degree from Jones School of law in 1998 and was admitted to practice law in 1999. She began her legal career with the Law Firm Volz, Prestwood and Hanan practicing employment and administrative law. In addition to her regular employment, Ms. Durham serves as the Chair of the Model Legislation Committee for the National Association of State Contractor Licensing Agencies and the Chair of the Women's Section and the Administrative Law Section of the Alabama State Bar Association. She is also proud to be a member of Leadership Montgomery Class VIII. Mrs. Durham was the President of the Board of the Capri Community Film Society (CCFS) for several years, during which time the CCFS purchased the theatre building. Her involvement on the Capri Board continued a tradition of community service, as Ms. Durham had previously served as the President of the Capitol Heights Community Association, and as a member of the Historic Designation Committee for the City of Montgomery.

Mrs. Durham has laid a firm foundation of policies, procedures and standards for not only the Board to build upon but for all the organizations to which she contributed. We thank her for her service. ▲

## Changes to the Home Builders Licensure Board's Administrative Code...What YOU Need to Know

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- Licenses will be valid for no more than 60 days and cannot be renewed. Only one license will be issued to any home builder applying for an emergency license.
- **VIOLATIONS OF THE ACT:** A violation of the Act as included in the Administrative Code (Ala. Admin. Code r. 465-X-1-.01(12)) now includes if a licensed builder does the following:
  - Fails to disclose in writing to a homeowner the status of its general liability insurance coverage;
  - Fails to disclose to a homeowner in writing prior to commencement of construction of its compliance with a program designed to enhance the resiliency of a structure (fortified housing, etc.);
  - Fails to notify the Board within 10 days after notice that a felony criminal prosecution has been brought against the licensee or the designated qualified representative of the licensee;
  - Fails to notify the Board within 10 days after notice of any criminal verdict rendered against the licensee or the designated qualified representative;
  - Fails to use a valid written contract including offer and acceptance indicated by the signing of all parties;
  - Uses the Home Builders Licensure Board logo for commercial purposes.
- **HOMEOWNER EXEMPTION:** The homeowner licensing exemption is not transferable. This includes transfer by agency, power of attorney, or other legal means of transfer (Ala. Admin. Code r. 465-X-3-.03(5)). A homeowner cannot transfer their homeowner exemption from holding a home builders license. Anyone that they hire to perform work that would require a license, including overseeing or supervising the job, must hold the required license.
- **AGRICULTURAL BUILDING EXEMPTION:** An agricultural building, defined as “a building, not meeting the definition of residence or structure within the Act, and used for raising, harvesting, and selling crops or for the feeding, breeding, management, raising, sale of, or the production of livestock, including beef cattle, sheep, swine, horses, ponies, mules, poultry, fur-bearing animals, honeybees, and fish, or for dairying and the sale of dairy products, or for the growing and sale of timber and forest products, or any other agricultural or horticultural use or animal husbandry and any combination thereof” is exempt from the Board’s licensing requirements UNLESS there is a residence contained within the building (e.g. an apartment loft located in a barn)) Ala. Admin. Code r. 465-X-1-.01(3) and 465-X-3-.03(7));
- **DEFINITION OF A SINGLE LOT:** The term “single lot” as used in Ala. Code § 34-14A-2(13) and as used in the Board’s rules shall mean:
  - (a) A single lot as prescribed by local zoning ordinances or building codes.
  - (b) Builders who construct or offer to construct more than four (4) residences on a single lot, including site-built homes, condominiums, duplexes, or multi-unit residential buildings consisting of more than four (4) residential units are subject to the jurisdiction of the Alabama Licensing Board for General Contractors.
- **LICENSE FEES:** The following fee amounts have been updated (Ala. Admin. Code r. 465-X-4-.04):
  - Non-refundable processing fee for applicants holding expired licenses with and without limitation less than 3 years old.....\$350.00
  - Nonrefundable application processing fee for applicants holding expired roofing licenses less than 3 years old.....\$150.00
  - Inactive fees for roofing licenses.....\$75.00
- **COST OF DISCIPLINARY HEARING:** The Board may collect the cost of holding a disciplinary hearing when the licensee is found guilty at the hearing and is disciplined by the Board. (Ala. Admin. Code r. 465-X-5-.06)

If you have any questions about these changes, please contact the Board. It’s up to you to be in compliance. ▲



All current disciplinary actions and unlicensed builder prosecutions can be found on the HBLB website at [www.hblb.alabama.gov/disciplinary-actions/](http://www.hblb.alabama.gov/disciplinary-actions/). All actions remain posted for a period of ninety (90) days. Inquiries pertaining to disciplinary actions and unlicensed builder prosecutions must be submitted in writing to the Home Builders Licensure Board, Legal Division, P O Box 303605, Montgomery, Alabama 36130-3605.



# Unlicensed Builder Sentenced to 22 Months in Community Corrections

**O**n June 14, 2018, Montgomery County Circuit Court Judge Roman Shaul sentenced Lorenza Taylor to 22 months for Theft of Property in the second degree and 12 months for Unlicensed Homebuilding as a part of a plea agreement. The Judge ordered that the sentences run concurrently, and the Defendant serve the sentences in the Montgomery County Community Correction program. Taylor was ordered to repay the \$8,000 to the victim. In October 2015, Taylor entered into an \$18,678.00 contract with the homeowner for a master bedroom addition. He was given an \$8,000 check, which he deposited, but never returned to the residence, which unfortunately is a common occurrence with unlicensed builders.

“We refer to unlicensed homebuilding as a gateway crime,” said Board Executive Director Chip Carden. “All too often we are dealing with so much more than just a guy who doesn’t have a license. We are dealing with someone who has stolen money from someone, taken advantage of a grandmother, or conned the homeowner out of insurance money to fix a storm damaged home.”

The Taylor case is an example of the Board’s continued effort to aggressively hold unlicensed builders accountable, and where appropriate, work with law enforcement and prosecutors in building cases for more serious crimes. Unlicensed homebuilding truly is a gateway companion crime as is evidenced in the Taylor case and several others the Board has investigated. Since 2017 to date the Board has obtained over 50 warrants against unlicensed builders and working with the local district attorneys, we have successfully prosecuted 47 of those cases. The Board compliance staff and investigators continue to investigate cases in partnership with local district attorneys, law enforcement, the State Department of Insurance Fraud division and the Alabama Attorney General’s Office related to theft, financial exploitation of an elderly person, forgery, and fraud.

As the economy continues to pick up in residential construction and with the changes to the Home Builder Licensure law with new residential roofing requirements, we fully expect to see more unlicensed builder cases.

“We tell homeowners and anyone else who will listen, always ask to see the card,” added Carden.

The theft and unlicensed homebuilder charges against Lorenza Taylor came after the investigation by the Board and the Montgomery Police Department. Board Investigator Stephen McCollough investigated this case. Special thanks to Montgomery County District Attorney Daryl Bailey and his Deputy DA John Halcomb, who worked so diligently to get the victim her restitution and hold the unlicensed builder accountable.

If you suspect an unlicensed builder is working on a job, please contact the Board immediately at 800-304-0853. ▲

## COMPLIANCE CORNER

Are you using a written contract when you do work for a homeowner? Is that contract signed by the homeowner? Is that contract signed by you and/or someone authorized to enter into contracts on behalf of your company? Important questions for all licensees to be mindful of when engaging in residential home building.

Under Ala. Code § 34-14A (1975), the Home Builders Licensure Law (“the Act”), entering into a contract for residential home building is a transaction (Ala. Code §34-14A-2(14)). And when a licensee enters into a contract, the licensee “shall utilize a valid written contract” (Ala. Code §34-14A-7(f)). According to the newly adopted Board regulations, effective October 12, 2018, a violation of the Act occurs when a licensee fails “to use a valid written contract including offer and acceptance indicated by the signing of all parties,” (Ala. Admin Code r. 465-X-1-.01(12)(a)(11)).

Therefore, it is important to remember when you agree with a homeowner to perform residential homebuilding that the terms of what you are doing and the costs are in writing, and the document is signed by both you and the homeowner. In investigating a consumer complaint, the first thing a Board Investigator will ask to see is a copy of the contract. Be aware: if the contract is signed by you, the licensee, but is not signed by the homeowner, that is not a valid written contract – a violation of the Act.

Failure to comply with the law and regulations regarding use of a valid written contract will result in disciplinary action against a licensee. And with changes to the Act effective May 1, 2018, the Board’s disciplinary authority may include some or all the following: revocation or suspension of a license, remedial education classes, and/or an administrative fine up to \$5,000 per violation. ▲



# Using the HBLB logo on your website?

*Here's why that is a  
bad idea.*

**M**any licensed home builders, and unlicensed home builders, have posted the official Home Builders Licensure Board logo on their website. The circle in the middle of the website is actually the Great Seal of the State of Alabama. There are a few laws concerning the use of the Great Seal; here is the one you need to know:

"It is unlawful for anyone to use an image or facsimile of the Great Seal of the State of Alabama as described in [Section 1-2-4](#) for any commercial purpose. . . . A violation of subsection (a) or (b) of this section is a Class C felony punishable as provided by law." Ala. Code § 13A-10-13 (1975).

There have been 2 opinions issued by the Attorney General on the use of the state seal. Both opinions state: "An image or facsimile of the Great Seal of Alabama may not be used for commercial purposes, that is, to further authenticate business activities. A commercial purpose is a purpose or objective pertaining to or furthering trade or business."

Using the Board's logo, which contains the Great Seal, on a website, letterhead, advertisement, or other item related to a business is the use of the state seal to encourage consumers to choose that business over a competitor that is not licensed by the Board, which is using the state seal for a commercial purpose and is a class C felony.

To help our licensees let the public know that they are licensed without running afoul of the law, the Board has created an official logo to be used by licensees only. It is similar to the original logo, but does not contain the Great Seal.

Email [information@hblb.alabama.gov](mailto:information@hblb.alabama.gov) to obtain a Home Builders Licensure Board logo for your use. ▲



**Builder Watch Hotline**

**1-800-304-0853**

Protect Alabama Consumers and Your Industry.

Report Unlicensed Builder Activity!

*(All calls will remain anonymous.)*

## Do you build new houses?



**and read this!**

**D**o you have workers compensation coverage for new residential construction worksites? Under the laws governing workers compensation and enforced by the Alabama Department of Labor, a homebuilder who undertakes new residential construction is required to carry workers compensation coverage on the jobsite, regardless of the number of employees. Beginning October 1, 2018, Home Builders Licensure Board investigators will request proof of documentation of compliance with state of Alabama workers compensation law when investigating consumer complaints and/or unlicensed builder complaints of new residential construction jobs. Builders who cannot produce proper or produce insufficient proof of coverage will be turned over to the Alabama Department of Labor. Failing to carry workers compensation insurance when building a new house for someone is a reckless disregard for that homeowner financially, as he or she is exposed to liability risk if someone is injured on the construction job site. Licensees may be subject to disciplinary action for gross negligence pursuant to the Home Builders Licensure law and regulations and a minimum \$2,500 administrative fine. If you are uncertain or have questions regarding compliance with workers compensation coverage for your business, contact the Alabama Department of Labor, Workers Compensation Division, 1-800-528-5166. ▲